



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

FEB 13 2013

CERTIFIED MAIL # 7005 3110 0000 5939 0238
RETURN RECEIPT REQUESTED

Mr. George Newmark
Owner of TCI of NY LLC
1800 Harrison Avenue
Kearny, New Jersey 07032

Re: Request for information Pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

Dear Mr. Newmark:

This letter seeks your cooperation in providing information and documents relating to a release of a hazardous substance, pollutant, or contaminant which occurred at the TCI of New York, LLC facility located at 39 Falls Industrial Park Road, Hudson, New York on or about August 2, 2012. The United States Environmental Protection Agency ("EPA") is currently investigating the source, extent and nature of this release.

We encourage you to give this matter your immediate attention and request that you provide a complete and truthful response to this Information Request and enclosed questions within 14 days of your receipt of this letter.

INFORMATION REQUEST

Under Section 104(e)(2) of CERCLA, 42 U.S.C. Section 9604(e)(2), EPA has broad information gathering authority which allows EPA to require persons to provide information and/or documents relating to the materials which have been or are generated, treated, stored, or disposed of at or transported to a facility, the nature or extent of a release of a hazardous substance or pollutant or contaminant at or from a facility, and the ability of a person to pay for or perform a cleanup.

While EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. When you have prepared your response to the Request for Information, please sign and have notarized the enclosed ACertification of Answers to Request for Information, and return that Certification to EPA with your response. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. Section 9604, authorizes EPA to pursue penalties for failure to comply with requests for information.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures outlined in the enclosed instructions, including the requirement for supporting your claim for confidentiality.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by our information request; it is necessary that you promptly notify EPA.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. '3501 et seq.

See the enclosed Instructions for information on how to respond to the enclosed questions. Your response to this Information Request should be mailed to:

Ms. Ellen Banner
Environmental Scientist
Response and Prevention Branch
U.S. Environmental Protection Agency
2890 Woodbridge Avenue
Bldg. 209 (MS-211)
Edison, NJ 08837-3679

If you have any questions regarding this Request for Information, or would like to discuss this matter with EPA, please contact Ms. Banner at (732) 321-4348 or have your attorney contact Ms. Jean Regna of the Office of Regional Counsel at (212) 637-3164.

We appreciate and look forward to your prompt response to this information request.

Sincerely yours,



Nicoletta DiForte, Senior Enforcement Policy Advisor
Emergency and Remedial Response Division
USEPA - Region II

Enclosure

INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

1. A complete and separate response should be given for each question. For each question contained in this letter, if information or documents responsive to this information request are not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Identify each answer with the number of the question and the subpart to which it responds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.
3. Provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. Consult with all present and past employees and agents of your Company whom you have reason to believe may be familiar with the matter to which the question pertains.
4. In answering each question, identify each individual and any other source of information (including documents) that were consulted in the preparation of the response to the question.
5. If additional information or documents responsive to this Request becomes known or available to you after you respond to this Request, EPA hereby requests pursuant to CERCLA Section 104(e) that you supplement your response to EPA.
6. If you have reason to believe that an individual other than one employed by your Company may be able to provide additional details or documentation in response to any question, state that person's name, last known address, phone number and the reasons for your belief.
7. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages and all recipients of the documents with their addresses.
8. If anything is omitted from a document produced in response to the Request for Information, state the reason for, and the subject matter of, the omission.
9. If you cannot provide a precise answer to a question, please approximate but, in any such instance, state the reason for your inability to be specific.

10. Whenever this Request for Information requests the identification of a natural person, or other entity, the person or entity's full name and present or last known address also should be provided.
11. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), and 40 C.F.R. § 2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

1. the portions of the information alleged to be entitled to confidential treatment;
2. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
3. measures taken by you to guard against the undesired disclosure of the information to others;
4. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
5. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
6. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. Please submit your response so that all non-confidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e) and 40 C.F.R. Part 2, Subpart B.

If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

Definitions

1. As used herein, the terms "the Company" or "your Company" refer not only to your Company as it is currently named and constituted, but also to all predecessors in interest of your Company and subsidiaries, divisions and branches of your Company.
2. The terms "you" or "Respondent" shall include any officers, managers, employees, contractors, trustees, successors, assignees, and agents of your Company.
3. The term "person" shall include any individual, firm, unincorporated association, partnership, corporation, trust, or other entity.
4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA, and includes any mixtures of such hazardous substances, products or other nonhazardous substances.
5. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known employer and business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, occupation, position or business.
6. With respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) the term "identify" means to provide its full name, address, and affiliation with the individual and/or company to whom/with this request is addressed.
7. The terms "document" and "documents" include any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control, or known by you to exist, including originals, all prior drafts, and all non-identical copies.
8. The term "arrangement" means every separate contract or other agreement between two or more persons, whether written or oral.
9. As used herein, the terms "release", "facility" and "person" shall have the meanings set forth in Sections 101(22), (9) and (21) of CERCLA, 42 U.S.C. §§ 9601(22), (9) and (21), respectively.
10. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, in which case the statutory definitions shall apply.

REQUEST FOR INFORMATION

1.
 - a. State the correct legal name and mailing address of your Company. If the legal name of your Company at the time of the release of a hazardous substance, pollutant, or contaminant which occurred on or about August 2, 2012 (the "Release") at or from the facility at 39 Falls Industrial Park Road, Hudson, New York (the "Facility") was different, provide that name also.
 - b. State the name(s) and address(es) of the President, the Chairman of the Board, and the Chief Executive Officer of your Company.
 - c. If your Company is a subsidiary or affiliate of another corporation, or has subsidiaries, identify each such entity and its relationship to the Company, and state the name(s) and address(es) of each such entity's President, Chairman of the Board, and Chief Executive Officer.
 - d. Identify the state and date of incorporation and the agent for service of process for your Company and each entity identified in your response to question 1.c. above.
2. Please provide the following information for the Facility:
 - a. the name and address of the Facility;
 - b. the owner and operator of the Facility;
 - c. the name, address and phone number of the Facility's supervisor, manager or equivalent;
 - d. the nature of the operations at the Facility;
 - e. the primary North American Industry Classification System (NAICS) Code for the Facility;
 - f. how many employees were employed at the Facility as of the date of Release.
 - g. the date your Company commenced operations at the Facility;
 - h. the date your Company ceased operations at the Facility, if applicable;
 - i. how much land the Facility occupies; and
 - j. the distance from the Facility to the nearest neighboring town.

3. Please provide the following information about the Release:
- a. the date (month/day/year) and time (using a 24-hour clock) that the Release began; and
 - b. the date (month/day/year) and time (using a 24-hour clock) that the Release ended.
4. Please provide all information available to you concerning the primary cause and any ancillary causes of the subject Release, including a detailed description of all processes involved.
5. Provide a detailed description of how the Release was first discovered, including the exact date and time that the Release was discovered, and describe any alarm system that was triggered. (Discovery includes, but is not limited to, process control device indication, chemical specific alarm, observation by an employee). Please provide all available documents, descriptions and data to support your answer, including names and phone numbers of all persons who first discovered the Release.
6. Describe the immediate response activities taken to mitigate the incident.
7. Using your best professional judgment, provide estimates for each chemical released (in pounds) to each media during the Release. For multiple chemicals, supply the same information for each chemical. Quantities released to each media should add up to the total quantity released.

Chemical Name: _____

CAS Number: _____

Concentration (wt %): _____

Physical state of chemical
at the time of release _____

Released To:	Quantity (lbs.)
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Air	_____
Surface Water	_____
Land	_____
Treatment facility	_____
Total Quantity Released	_____

8. In determining the extent of the Release, identify and describe whatever techniques were employed to quantify the Release. Please provide copies of the calculations performed and identify those amounts which were estimated and the reliability of such estimates.
9. Provide a complete description of where any of the substances identified in your response to Question 7 migrated to, including any nearby localities. Include in your answer whether any of the substances identified in your response to Question 7 migrated:
 - a. beyond the confines of an enclosed structure; and
 - b. beyond the property boundaries of your Facility (for example, a vapor release was carried by prevailing wind beyond the fence line of your Facility).
10. Indicate the distance between the point of release and the nearest facility boundary. Provide site map or drawing if available.
11. Describe the basis for your answer to Questions 9 a. - b., and the methodologies which were used to determine the answer to Questions 9 a. - b. (for example, by observation and/or use of monitoring equipment)?
12. Identify the person who was responsible for the investigation of the Release for your Company. Please provide a copy of the investigation report.
13. Were federal authorities notified of the Release? If so, please provide the following information:
 - a. the name, address and telephone number of the federal authorities which were notified;
 - b. the date and time (using a 24-hour clock) that the federal authorities were notified; and
 - c. the name and title of the person who made this notification.
14. Was the State Emergency Response Commission ("SERC") notified of the Release? If so, please provide the following information:
 - a. the name, address and telephone number of the SERC which was notified;
 - b. the date and time (using a 24-hour clock) that the SERC was notified; and
 - c. the name and title of the person who made this notification.

15. Were all appropriate Local Emergency Planning Committees ("LEPCs") notified of the Release? If so, please provide the following information:
 - a. the name, address and telephone number of the LEPCs which were notified;
 - b. the date and time (using a 24-hour clock) that the LEPCs were notified; and
 - c. the name and title of the person who made this notification.
16. If applicable, was an update to the immediate notification provided to the NRC, SERC and/or LEPC(s)? Please discuss the circumstance(s) that warranted each update to the immediate notification.
17. Was a written follow-up emergency notice provided to the SERC and the LEPC(s) pursuant to Section 304(c) of the Emergency Planning and Community Right to Know Act ("EPCRA"), 42 U.S.C. § 11004(c)? Identify to whom the follow-up notices were sent and provide copies of such notices and proof of mailing. If multiple follow-up notices were provided to the SERC and LEPC, please provide copies of such notices and proof of mailing.
18. Was the general public notified of the Release? If so, describe how and when the notification was made.
19. Was there an evacuation in response to the Release? If so, describe how the evacuation was accomplished and how many people were evacuated.
20. Were any persons injured or hospitalized as a result of the Release? If so, please provide the following information:
 - a. the number of people who were injured or hospitalized as a result of the Release and their identities, if known;
 - b. the extent of the injuries suffered by the people identified in your response to Question 19.;
 - c. the role(s), if any, at the scene of the Release of the people identified in your response to Question 19.; and
 - d. identify the hospital(s) where people who were injured as a result of the Release were sent.

21. Were written standard operating procedures ("SOPs") available to plant personnel at the time of the Release which detail the actions to be taken in case of a release or malfunction? If so, please provide copies of the appropriate SOPs.
22. Were the actions outlined in the plant SOPs followed at the time of the Release?
23. Describe any actions taken to prevent such a release from occurring in the future.
24. If this response, or information previously submitted to EPA regarding the quantity of the Release, differs from your report to the National Response Center, SERC, or the LEPC(s), explain the differences and the bases for the differences.
25. Please provide a chemical inventory of the maximum and average inventories for the chemicals stored on site at the time of the Release and the maximum and average inventories for the chemicals which have been stored on site for the past three years. Please include materials which were owned by a partner or another company and were stored on site at the time of the Release and for the past three years.
26. Please provide copies of any and all engineering reports which are in your possession that make reference to the chemical inventories on site.
27. For each and every question contained herein, if information or documents responsive to this AInformation Request@ are not in your possession, custody or control, identify the persons from whom such information or documents can be obtained

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of _____:

County of _____:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that my company is under a continuing obligation to supplement its response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or the company's response thereto should become known or available to the company.

NAME (print or type)

TITLE (print or type)

SIGNATURE

Sworn to before me this

_____ day of _____, 20____

Notary Public